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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.237 OF 2006

Dinkar s/o Eknath Jagtap
Age 30 years, Occu. Agri.,
R/o Satra, Taluka and
District Beed.

... PETITIONER
(Orig. Complainant)

VERSUS

1. The State of Maharashtra
(Through Police Station Officer
Police Station, Neknoor,
Tq. and District Beed.)
2. Chandrakant s/o Bappasaheb Kulkarni,
Age 62 years, Occu. Agri.,
R/o Satra, Tq. and Dist. Beed.
3. Sunil s/o Chandrakant Kulkarni,
Age 33 years, Occu. & R/o as above.
4. Laxmikant s/o Chandrakant Kulkarni,
Age 32 years, Occu. & R/o as above.
5. Anant s/o Chandrakant Kulkarni,
Age 28 years, Occu. & r/o as above.

... RESPONDENTS

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Shri V.C. Patil, Advocate holding for
Shri S.M. Godsay, Advocate for petitioner
Shri R.V. Dasalkar, A.P.P. for respondent No.1/ State
Shri Govind Kulkarni, Advocate holding for
Shri Rajendra S. Deshmukh, Advocate for respondents No.2 to 5
.....

CORAM: T.V. NALAWADE AND
 SUNIL K. KOTWAL, JJ.

Date of reserving judgment : 19th April, 2018

Date of pronouncing judgment : 24th April, 2018.

JUDGMENT (PER SUNIL K. KOTWAL, J.):

1. The original informant Dinkar Eknath Jagtap has filed this revision against the judgment and order of acquittal of accused No.1 to 4 of the offences punishable under Sections 324, 323 read with Section 34 of the Indian Penal Code, passed by Ist Adhoc Additional Sessions Judge, Beed in Sessions Case No.20/2006, dated 19.4.2006. Respondents are original accused No.1 to 4 respectively.

2. Prosecution case in nutshell is that, the father of the informant was owner of Gat No.421, situate at Mouze Satra, and adjoining to that land, the wife of accused No.1 owned Gat No.422. On account of boundaries of these adjoining lands, civil dispute is pending in between the parties and on that count, parties were on inimical terms.

3. On 13.7.2006, informant Dinkar Jagtap (P.W.1), his brother Ramhari (P.W.2) went to Civil Court at Beed to attend the hearing of the date of their civil dispute. After adjournment

of the case, when they were proceeding towards Tahsil Office, Beed, that time accused No.1 and his companions assaulted Dinkar Jagtap and his friend Vijaykumar Deshpande. About this incident, Dinkar Jagtap and Vijaykumar Deshpande lodged report to Police Station, Beed. On 14.7.2004, at about 1.30 p.m., when Eknath Jagtap and his wife went to the field of accused No.1 Chandrakant and asked them about assault to their son at Beed, that time dispute arose in between them and accused No.1 abused and inflicted stone blow on the nose, head of Eknath Jagtap. That time, Dinkar and his brother Ramhari were also assaulted by accused persons. Dinkar was assaulted by accused Anant Kulkarni and his brother Ramhari was assaulted by accused Sunil Kulkarni. Mother of the informant was manhandled and her Mangalsutra was broken. On the same day, report Exh.16 was lodged to Police Station, Neknoolr. In the result, offence was registered against the accused persons under Sections 324, 506, 504 read with Section 34 of the Indian Penal Code.

4. During the course of investigation, investigating officer prepared spot panchanama (Exh.31) and after completion of investigation, filed charge sheet before the Judicial Magistrate, First Class.

5. However, counter Criminal case was pending before the Sessions Court, Beed against the informant and his family members. Therefore, this case was also committed to Sessions Court, Beed. This case was also disposed of along with counter Sessions Case No.80/2005.

6. Charge Exh.2 was framed against accused No.1 to 4 for the offences punishable under Sections 324, 323 read with Section 34 of the Indian Penal Code. Accused pleaded not guilty and claimed trial.

7. After considering the evidence placed on record, trial Court pleased to acquit the accused and, therefore, this revision arises.

8. Heard learned counsel for the petitioner and learned counsel for the respondents – accused. Sum and substance of the arguments advanced by learned counsel for respondents accused is that, the evidence of Dinkar informant was fully corroborated by injured eye witnesses Ramhari and Eknath Jagtap, the learned trial Court disbelieved that evidence on flimsy grounds.

9. On the other hand, learned Advocate for respondents submitted that, the oral testimony of Dinkar (P.W.1) is in conflict with recitals of his own F.I.R. as well as with the testimony of eye witnesses regarding the place of the occurrence about the actual occurrence.

10. He pointed out that, no medical evidence has been brought on record by prosecution to prove the incident.

11. After scanning of the evidence, it emerges that, as per recitals of the F.I.R., the incident dated 14.7.2004 occurred in Gat No.422 in the field at village Satra. However, as per charge Exh.2, the incident occurred in Gat No.421 and even the spot panchanama Exh.31 was prepared in Gat No.421, which is owned by Eknath Jagtap. However, Dinkar (P.W.1) deposed before the Court that the incident of assault occurred on 14.7.2004 in Gat No.421. Thus, the oral testimony of Dinkar (P.W.1) is totally in conflict with recitals of the F.I.R. regarding the actual place of the incident. Dinkar (P.W.1) in his cross-examination has admitted that, he cannot assign any reason why his complaint is silent about the occurrence of the incident in Gat No.421. The version of Dinkar (P.W.1) regarding injury to the

finger of his father's right hand is also proved as omission. According to Dinkar, at the time of occurrence, accused Sunil assaulted Ramhari and accused Anant assault Dinkar (P.W.1). Even Ramhari (P.W.2) deposed that, accused Chandrakant inflicted stone blow on the head, hand and nose of Eknath; and Sunil assaulted him by stone, fist and kick blows; and accused Anant and Laxmikant assaulted Dinkar with stone. However, to substantiate this contention, no medical evidence has been placed on record by the prosecution. Even investigating officer P.S.I. Gautam Ingle (P.W.5) has admitted in his cross-examination that, during investigation he did not find that Dinkar Jagtap lodged report to Police Station, Beed about the incident dated 13.7.2004, which was the cause behind the alleged incident dated 14.7.2004. In addition to this, prosecution has conveniently suppressed and did not furnish explanation for injury sustained by accused Chandrakant, Sunil and Anant. Thus, considering the circumstances of this case i.e. mention of different spot of the incident in F.I.R., conflicting versions of witnesses, falsity of incident dated 13.7.2004 and suppression of genesis of the occurrence, benefit of doubt goes in favour of the accused persons.

12. After perusal of the judgment passed by the trial

Court, which emerges that, the trial Court has taken into consideration all these above infirmities which emerged in the evidence of prosecution witnesses and rightly acquitted the accused persons by giving benefit of doubt. The view taken by trial Court is possible view and, therefore, we do not find any reason to interfere that judgment and order of acquittal. This revision being devoid of merits, deserves to be dismissed. Hence we pass the following order :

ORDER

Criminal Revision Application No.237/2006 is dismissed.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

fmp/